



State of Indiana
Indiana Department of Correction

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Number

04-03-104

POLICY AND ADMINISTRATIVE PROCEDURES

Manual of Policies and Procedures

Title

ALCOHOL AND DRUG TESTING OF DEPARTMENT OF CORRECTION EMPLOYEES

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-8-2-5(a)(8)	04-03-103	ACA: ACI: 4-4063 JTS: 3-JTS-1C-17 CO: 2-CO-1C-20

I. PURPOSE:

The purpose of this policy and its administrative procedures is to establish an alcohol and substance abuse testing program for employees of the Department of Correction.

II. POLICY:

The Department of Correction is committed to a workplace free of alcohol and illegal drugs in order to give all employees and offenders the opportunity to work and live in a safe and productive environment. Employees shall not unlawfully manufacture, distribute, dispense, possess, or use illegal drugs or alcohol on the job, or report to work under the influence of alcohol and/or illegal drugs or any other substance(s). Nor shall an employee consume or be under the influence of alcohol and/or illegal drugs or any other substance(s) at any time while on-duty, while conducting Department business or while wearing a Department uniform, displaying an official Department badge or identification.

An illegal drug and alcohol free workplace is especially important in the Department of Correction since many of the offenders receiving the Department's services have experienced various forms of substance abuse. Department employees must serve as examples of responsible behavior to the offender population. Accordingly, employees must not have any trace of alcohol or controlled substances within their system while on duty.

To achieve a goal of zero (0) tolerance for the manufacturing, distributing, dispensing, possessing or using of controlled substances and alcohol by employees while on-duty, the Department shall implement an alcohol and illegal drug testing program for employees. This testing program shall consist of pre-employment, random, reasonable suspicion and post incident testing. The pre-

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hiring and random testing shall apply to Correctional Officers, Youth Services Officers and those employees having contact with incarcerated adult offenders or juvenile offenders in Department facilities. These are the employees who generally have: regular access to the offender population; a reasonable opportunity to smuggle drugs into the offender population; and, access to firearms. Reasonable suspicion testing may apply to any on-duty employee.

Employees who indicate a potential substance abuse problem or who are found to have a substance abuse problem shall be referred to the State of Indiana Employee Assistance Program (EASY Program) and/or to their health insurance provider to determine what services may be available in their area. Additionally, employees who are found to be in violation of this policy shall be subject to disciplinary action, up to and including termination.

III. DEFINITIONS:

For the purpose of these procedures, the following definitions are presented:

- A. **ALCOHOL:** Those substances chemically classified as alcohols which are imbibed into the human body, regardless of the alcohol bearing liquid involved, including liquor, beer, wine, and mixed alcoholic drinks.
- B. **BREATH ALCOHOL TEST:** Analysis of a breath sample by scientifically accepted instrumentation.
- C. **CHAIN OF CUSTODY:** A written record of the proper collecting and handling of a urine specimen.
- D. **ILLEGAL DRUG:** Any controlled substance classified as Schedule I, II, III, IV, or V in Indiana Code 35-48-2, et seq., which have not been specifically prescribed by a licensed Health Care practitioner.
- E. **MANAGEMENT AUTHORITY:** The Facility Head, Parole District Supervisor, or designee.
- F. **MEDICAL REVIEW OFFICER (MRO):** A licensed physician with knowledge of substance abuse disorders responsible for the receipt, review, and interpretation of all confirmed positive test results submitted to the Department of Correction from the drug-testing laboratory. The officer's review shall be performed prior to the transmission of any positive test results to any management officials.

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- G. **OTHER SUBSTANCE OR SUBSTANCES:** Any drug, chemical, or substance which has, or could have, the effect of impairing the mind or body, or otherwise affect the senses, responses, motor function, or alter a person's perception while on duty.
- H. **PRESCRIPTION DRUG:** Any medication prescribed by a licensed Health Care practitioner which cannot be obtained without a prescription and which are used in exactly the manner prescribed by the person for whom the prescription was written.
- I. **RANDOM DRUG TESTING:** A process of selection of persons classified as correctional officers, youth service officers, or those employees having contact with incarcerated adult offenders or juvenile offenders in Department facilities, to be tested which:
1. Results in an equal probability that any employee will be selected; and,
 2. Does not allow management staff the discretion to waive the testing of any employee selected under the process.
- J. **REASONABLE SUSPICION:** The quantity of proof or evidence, based on specific, objective facts and any rationally derived inferences from those facts about the conduct of an individual that would lead a reasonable person, based upon his training and experience, to suspect that the individual is or has been using alcohol and/or any other substance or substances. Reasonable suspicion is less than probable cause, but substantially more than a mere hunch. Reasonable suspicion shall be based on the totality of the circumstances, and one shall articulate the reasons for suspicion.
- K. **SANCTIONS:** Penalties, requirements, or restrictions imposed on an employee for violations or non-compliance with the Department of Correction Drug Free Workplace procedure.
- L. **UNDER THE INFLUENCE:** When an employee's behavior, judgment, coordination, or physical or mental ability appears to be unsafe or unfit for duty and/or an employee's blood or urine has a detectable amount of alcohol or any other substance or substances.
- M. **URINALYSIS AND URINE DRUG SCREEN:** Urine samples that are screened for specified drugs and their metabolites using defined cutoffs.

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Those urine samples found to be positive by the initial drug screen shall then be confirmed by gas chromatography mass spectroscopy (GCMS).

IV. POSSESSION OF PRESCRIPTION MEDICATIONS:

Any prescription drug brought to the work site or carried by an employee while on duty shall be in an appropriate container.

1. If requested, the employee shall provide a copy of the physician or dentist prescription.
2. The Department reserves the right to have an authorized physician determine if a prescription drug or medication could adversely affect the ability of the employee to perform his duties.

V. TESTING FOR ILLEGAL DRUGS AND/OR OTHER SUBSTANCE(S):

A. PRE-EMPLOYMENT TESTING

1. Candidates for positions having routine contact with adult and juvenile offenders under the supervision of the Department either in facilities or the community shall be required to submit to a urine drug test. Prior to employment, following the initial interview and after a conditional offer of employment has been extended, the prospective employee shall be required to submit to a urine drug test.
2. Pre-employment urine tests shall be conducted by a vendor selected by the Department in accordance with the selected vendor's procedures and samples shall be collected by the vendor's staff or designated collectors at locations designated by the vendor. The vendor shall be responsible for all aspects of the collection, testing and reporting of results of urine tests.
3. At the time of the conditional offer of employment, staff shall contact the Department's vendor providing illegal drug and other substance(s) testing and make arrangements for the candidate to go to a designated collection site to provide a urine sample.
4. The Department's vendor shall process the candidate's test in accordance with the approved contract.

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5. Failure of the candidate to report to the designated collection site at the indicated time shall be considered the same as receiving a positive test result and the conditional offer of employment shall be rescinded
6. If the pre-employment urine drug test shows evidence of improper current use of illegal drugs or other substances, the offer of employment with the Department shall be withdrawn and the person not hired for any position within the Department.

B. RANDOM TESTING

1. All employees whose duties include direct offender oversight, supervision, or interaction as part their duties shall have their names submitted monthly to the contracted testing company.
2. The contracted testing company will use a random selection system to generate a list of names for testing which provides an equal chance for each employee to be selected each time the random selection occurs. (NOTE: Random selection by its very nature may result in employees being selected in successive selections more than once per calendar year.)
3. The Commissioner shall determine the percentage of employees who shall be randomly tested which may be done on any schedule the Commissioner believes is appropriate at the time.
4. Random testing may be done in conjunction with other Department operations, such as facility searches and shakedowns.
5. Random urine tests for illegal drugs and/or other substances shall be conducted by a vendor selected by the Department. These tests shall be conducted in accordance with the selected vendor's procedures and samples shall be collected by the vendor's staff or designated collectors at locations designated by the vendor. The vendor shall be responsible for all aspects of the collection, testing and reporting of results of urine tests.
6. Employees selected for the random testing will be notified and immediately tested by the testing company dispatched to the facility. Employees selected for a random test shall not be notified of the selection in advance of date and time of the test.

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7. Employees being tested must follow and comply with all instructions provided by the collector(s).
 - The employee will be provided with a form containing the employee's name, date of birth, facility, shift, and other identifying information and a chain of custody form to fill out at the test site. If the employee wishes to disclose any over the counter or prescription medications they are currently taking, they can list such items on the back of the chain of custody form prior to submitting the urine sample.
 - Employees who refuse random tests are subject to disciplinary action, up to and including dismissal following a pre-deprivation meeting, if required.
8. The routine urine collection procedure shall include:
 - The collector directing the donor to go into the room used to collect the specimen;
 - The employee shall be required to provide a specimen of at least 45 mL
 - The employee shall not flush the toilet, if in the room, and shall submit the specimen to the designated staff at the collection site as soon as possible after completing the void.
 - The employee shall always be permitted to provide a specimen in private unless a direct observed collection has been authorized.
 - If a specimen temperature is out of the acceptable range, a second collection is immediately required under direct observation.
9. A direct observed collection procedure is the same as a routine collection procedure with the additional requirement that an observer physically watches the donor urinate into the collection container.
 - a. The use of an observer may occur only when:
 - A previous drug test was reported either positive for a drug, dilute, adulterated, substituted, unsuitable

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for testing, or canceled because the split specimen was not tested;

- The drug test is a return-to-duty or a follow-up test;
- The agency/employer believes that the donor may alter or substitute the specimen to be provided; or,
- During a routine collection, the temperature of the specimen collected is outside the acceptable range, the collector observed materials brought to the collection site or donor conduct indicated a possible attempt to adulterate or substitute a specimen, or the collector believes that the specimen has been adulterated (e.g., the specimen is blue, exhibits excessive foaming when shaken, has smell of bleach).

- b. The observer must be the same gender as the donor even if the observer has a medical background/training.
- c. The collector may serve as the observer when the collector is the same gender as the donor. If not, the collector must call upon another individual (who is the same gender as the donor) to act as the observer.

10. An employee may be unable to provide a specimen for a variety of reasons, including, but not limited to

- The employee may have intentionally urinated prior to arriving at the collection site;
- The employee could not provide a specimen as directed by the collector;
- The employee has a physical disability making it impossible to provide a specimen; or,
- The employee has a "shy bladder." (NOTE: "Shy bladder" usually refers to an individual who is unable to provide a specimen either upon demand or when someone is nearby during the attempted urination.)

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11. If a donor tells the collector, upon arrival at the collection site, that he/she cannot provide a specimen, the collector must begin the collection procedure regardless of the reason given.
 - An employee shall have up to 3 hours to provide the required 45 ml of urine (sufficient specimen), and may consume up to 40 ounces of fluids during this time.
 - A Department supervisor shall monitor an employee during this waiting period.
 - If, after 3 hours of waiting, an employee is unable to provide 45 ml of urine, appropriate disciplinary action up to and including dismissal may result following a pre-deprivation meeting, if required.
 - In some shy bladder cases, it may be necessary for the designated collector to direct the Department supervisor to a local collection site to have the collection completed and the Supervisor shall observe the collection of the specimen at the collection site.
12. If an employee is not available on the date and time that the test is scheduled (e.g., on sick or vacation leave, not at the worksite, etc.) arrangements shall be made for the employee to provide a sample immediately upon return to the work site.
13. Failure of an employee to report to the designated collection site as instructed shall be considered the same as receiving a positive test result and shall subject the employee to disciplinary action, up to and including termination of employment.
14. If the random urine drug test shows evidence of improper current use of illegal drugs or other substances or an attempt to provide a false sample or an adulterated sample, the employee shall be subject to disciplinary action, up to and including termination of employment.

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C. OTHER TESTING FOR ILLEGAL DRUGS OR OTHER SUBSTANCES

1. REASONABLE SUSPICION TESTING

- a. An employee may be required to submit to a urine test any time that supervisory staff has reason to believe that the employee has used or is under the influence of an illegal drug or other substance.
- b. Reasonable suspicion testing shall be required if requested by the Facility Head or designee when in his/her judgment such there is reason to believe:
 - (1) An employee's behavior, judgment, coordination, or physical or mental ability appears to be unsafe or unfit for duty.
 - (2) The employee is under the influence of illegal drugs, alcohol, and/or any other substance(s) and is unfit for duty.
 - (3) An employee is involved in the illegal drug trade or is using illegal drugs.
 - (4) An employee admits to drug or alcohol abuse.
- c. When supervisory staff has reasonable suspicion to believe an employee has used or is under the influence of alcohol and/or illegal drugs or any other substance(s) while on duty, the supervisor shall immediately contact the Facility Head or designee. The supervisory staff person shall document the circumstances or reasons justifying their reasonable suspicion to believe that the employee has used or is under the influence of alcohol and/or illegal drugs or other substance(s).
- d. Any employee having a reasonable suspicion to believe that another employee is using, in possession of, or under the influence of illegal drugs or any other substance(s) shall immediately report the facts and circumstances to his/her supervisor. The employee shall document the circumstances or reasons justifying his/her reasonable

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suspicion to believe that the employee has used or is under the influence of alcohol and/or illegal drugs or other substance(s).

(1) The supervisor shall immediately observe the suspect employee's behavior and take any other appropriate steps to determine whether reasonable suspicion exists.

(2) If the reasonable suspicion appears to be correct, the supervisor shall immediately notify the Facility Head or designee.

e. The Facility Head or designee may require the employee to submit to a urine drug screen based on the documentation provided by the supervisory staff or take any other action that appears to be appropriate.

f. Employees who fail to provide a urine specimen as required shall follow the procedures as indicated in Procedure V B 11.

2. POST INCIDENT TESTING

An employee shall be subject to urine testing for illegal drugs or other substances following certain incidents:

a. Where property damage or injury to a person has occurred and reasonable suspicion exists to believe the employee is under the influence of illegal drugs and/or any other substance(s).

b. Following the discharge of a firearm in any situation other than the routine discharge of a firearm on a firing range.

3. FOLLOW-UP TESTING

After an employee has tested positive, further testing may be conducted at the employer's discretion for up to one (1) year.

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4. EMERGENCY RESPONSE TEAM TESTING

Employees who volunteer to serve on an Emergency Response Team are subject to testing for illegal drugs and other substances due to the nature of the assignment. These employees shall adhere to the testing procedures as required by the Division of Emergency Response Operations.

5. PROCEDURES FOR REASONABLE SUSPICION, POST INCIDENT AND FOLLOW-UP TESTING

All urine tests of employees for any of the reasons indicated in Procedure V. C of these administrative procedures shall comply with the following procedures:

a. Pre-Test Interviews

Supervisory staff shall escort the employee to a private office where a designated staff member will provide the employee with a checklist in order to ascertain and document any recent use of prescription or non-prescription drugs. During the pre-test meeting, the employee shall be required to sign an authorization which permits the release of the drug results to Department supervisory staff. An employee refusing to sign an authorization, or who refuses to be tested, shall be considered under the influence and subject to appropriate disciplinary action.

b. Privacy

The sample collection process shall allow for privacy unless there is cause for a witnessed collection of urine. If there is a cause for a witnessed urine collection, the collection shall be witnessed by a person of the same sex as the employee. The following circumstances are grounds constituting the need for a witnessed urine collection.

- (1) The individual has altered or substituted a sample in the past.
- (2) Reason to believe the individual may alter or substitute sample.

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- (3) The individual has tested positive and is now testing as part of the disciplinary process.
- (4) The designated staff observes conduct clearly indicating an attempt to substitute or alter the urine sample.
- (5) The urine sample falls outside the normal temperature range.
- (6) The laboratory has determined that the creatinine levels of a previous urine sample are outside the normal range.

c. Integrity of Sample

Precautions shall be taken to ensure that the urine sample cannot be tampered with during the collection process.

- (1) Bluing agents shall be placed in the toilet tanks.
- (2) There shall be no other source of water or any other substance in the enclosure where samples are collected.
- (3) All unnecessary garments such as coats, jackets, sweaters, purses, briefcases, or any other personal items that could be used to alter the urine sample shall be left outside the collection areas.
- (4) The individual shall be instructed to thoroughly wash and dry their hands prior to urination.
- (5) There shall be two (2) persons trained to carry out the drug screening procedures at each test site.
- (6) Latex gloves shall be worn by the designated staff at all times during the collection process.
- (7) A collection cup shall be provided to each individual by the designated persons.

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- (8) At least 60 ml of urine shall be collected. If an insufficient amount of urine is given for a Drug Screen and the employee indicates that he/she shall be unable to produce any more urine at that time, the inadequate sample shall be properly disposed of by the designated collector and a newly labeled specimen bottle shall be used.
- (9) When the employee is unable to urinate, he/she shall be allowed to drink eight ounces of liquid per hour and permitted a maximum of four hours to produce a sample. Failure to produce a sample after that time shall be considered as under the influence.

d. Identity of the Sample

- (1) When the urine has been collected, either in private or witnessed, the sample shall be returned to the designated collector.
- (2) The urine sample shall remain in plain sight of the submitting employee and the designated collector during the completion of the chain of custody procedures.
- (3) The submitting employee shall close the urine sample container.
- (4) In the presence of the submitting individual, the designated collector shall:
 - (a) Seal the urine sample container with evidence tape.
 - (b) Label the urine sample container and include the submitting individual's initials and employee identification number.
 - (c) Begin the chain of custody form.
 - (d) The submitting employee shall initial that his employee identification numbers and

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initials are correct on the specimen and the chain of custody form.

- (e) Place the urine specimen container in a plastic bag and seal with evidence tape.
- (f) Complete the drug testing facility's referral form.
- (g) Place the chain of custody form and the plastic bag containing the urine specimen into a second plastic bag and seal with evidence tape.

e. Custody and Control

- (1) Persons receiving the urine sample shall deposit the urine sample and the chain of custody form in a secured area until transferred to the custody of the drug testing facility.
- (2) When any outside delivery agent is to deliver a urine sample to the laboratory, the designated collector shall ensure that the sample is released to the delivery agent by signature of staff packaging the sample.
- (3) The laboratory personnel conducting the testing shall sign and date the Chain of Custody certifying that the sample was received intact and was properly identified as the employee's.

f. Analysis Process

- (1) An independent laboratory designated by the Department shall perform the screening test on all urine samples collected by the facilities.
- (2) The initial test shall be the immunoassay testing process.
- (3) A positive result shall be confirmed by GCMS.

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- (4) Negative samples shall be discarded.
- (5) Samples testing positive after both the screening and confirmation tests shall be considered positive for the purpose of retaining the sample. Positive samples shall be retained in a frozen state at least 365 days.
- (6) The laboratory shall report which substance, or substances, the urine sample tested positive for, if any.

g. Notification Process

- (1) Positive test results shall be reported to the facility within five (5) working days of receipt of the sample.
- (2) Positive test results shall be transmitted to the facility in a manner designed to ensure confidentiality of all test results.
- (3) The Facility Head or designee shall notify the employee by memorandum of any positive test result and schedule a meeting to review the results. The meeting shall serve as an opportunity for the employee to discuss the test results and provide any additional information that may influence the test results.

h. Final Action

- (1) Appropriate action for positive test results which may include disciplinary action, up to and including dismissal, shall be taken to for violations of the Department of Correction Drug Free Workplace procedure.
- (2) Any employee who tests positive for illegal drugs and/or any other substance or substances may be referred by the Facility Head or designee to an employee assistance program.

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- (3) When deemed appropriate by the Facility Head or designee, the employee may be required to be evaluated for participation in a drug or alcohol abuse assistance or treatment program. If the evaluation results in the recommendation that the employee participate in a drug or alcohol abuse assistance or treatment program, the employee shall successfully complete a drug or alcohol abuse assistance or treatment program.

VI. BREATH ALCOHOL TEST PROCEDURES:

Breath alcohol tests shall be conducted by staff using equipment at the facility. Only staff trained in the use of breath alcohol tests shall perform these tests on employees of the Department. All testing using breath alcohol test equipment shall be in accordance with the instructions from the manufacturer.

The Facility Head shall ensure that any breath alcohol test equipment used in the facility is calibrated in accordance with the manufacturer's specifications. Re-calibrations shall be made in accordance with the manufacturer's specifications.

Breath alcohol tests shall only be used in cases of reasonable suspicion that the employee has recently consumed alcoholic beverages or is under the influence of alcohol and in post incident situations.

Staff administering breath alcohol tests shall ensure the privacy of the employee as much as possible and shall keep the results of all tests confidential. Positive test results shall be provided to the Facility Head or designee as soon as possible after the test.

The Facility Head may take any final action for a positive breath alcohol test indicated in Procedure V. C. 5. h.

VII TRANSPORTATION OF STAFF:

The Facility Head or designee shall ensure that in cases where an employee is being tested due to reasonable suspicion that the employee is under the influence of alcohol, illegal drugs or other substances transportation is provided to the site where the alcohol and/or drug test is to be administered if not at the facility.

If the test result is positive or if the employee's behavior is such that he/she cannot remain at the facility due to being under the influence of alcohol, illegal

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drugs or other substances, the Facility Head or designee shall ensure that the employee does not attempt to operate a motor vehicle when leaving the facility. The employee shall be instructed to obtain alternative means of transportation from the facility or, at the discretion of the Facility head or designee, the facility may provide transportation to the employee's home.

In cases where the employee refuses to obtain alternative transportation and attempts to drive him/herself from the facility, the Facility Head or designee shall contact local law enforcement and advise that the employee may be operating under the influence or alcohol, illegal drugs or other substances.

VIII. CONFIDENTIALITY:

- A. Department employees and any vendors involved in any aspect of the drug testing program shall be required to maintain strict standards of confidentiality.
- B. Test results of an employee shall not be disclosed without the prior written consent of the employee unless the disclosure would be pursuant to an order of a hearing officer or court of competent jurisdiction.

IX. EMPLOYEE NOTIFICATION, TRAINING, AND EDUCATION:

- A. At the initial interview for employment, all applicants for positions covered by this procedure shall be informed of:
 - 1. The drug free workplace procedure.
 - 2. The drug testing or screening procedures.
 - 3. The requirement of signing an authorization form to release the results of the drug and alcohol test or screen to the management authority.
- B. The Department of Correction shall provide drug education to all employees covered by this procedure. The drug education shall include:
 - 1. Types and effects of drugs.
 - 2. Symptoms of drug use and the effects on performance and conduct.

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3. The relationship of the employee assistance program to the drug-testing program.
4. Department of Correction procedure prohibiting the use of illegal drugs, other substance(s) and alcohol.
5. The reliability of illegal drug and alcohol testing.
6. Other relevant treatment and confidentiality issues.

C. All staff involved in the collection of urine samples shall be trained in this procedure before any drug and alcohol testing or screening of employees is conducted.

1. Supervisory staff must receive at least one (1) hour of training in alcohol/substance abuse. These supervisors shall receive one (1) hour of training in the recognition and signs of alcohol abuse and one (1) hour of training in the recognition and signs of illegal drug and/or other substance(s) abuse. The Division of Staff Development and Training shall coordinate this training.
2. Documentation of training provided pursuant to these procedures shall be maintained in the staff person's Personnel File.

X. APPLICABILITY:

This policy and its administrative procedures are applicable to all Department of Correction staff and facilities.

Signature on File
J. David Donahue
Commissioner

2/12/07
Date